

Exhibit A

Graham, Glenn T.

From: Rusk, Michelle K. <MRUSK@ftc.gov>
Sent: Friday, May 24, 2019 7:26 PM
To: Castello, Geoffrey; Metzinger, Jaclyn; de Leeuw, Michael; 'jbkelly@cozen.com'
Cc: Kate Matuschak (Kate.Matuschak@ag.ny.gov); Soberats, Annette; Villafranco, John; Graham, Glenn T.; 'twise@cozen.com'
Subject: RE: Joint Scheduling Order Quincy Bioscience

CAUTION External Email

Thanks Jeff. I would still suggest saying FTC staff instead of bureau director but we will leave that to you. Could you also fix one typo in our statement to remove apostrophe in "the Parties' remain far apart." ? We are ok with this version.
See you Tuesday and thank you for handling today's edits.

----- Original Message -----

From: "Castello, Geoffrey" <GCastello@KelleyDrye.com>
Date: Fri, May 24, 2019 6:17 PM -0400
To: "Rusk, Michelle K." <MRUSK@ftc.gov>, "Metzinger, Jaclyn" <JMetzinger@kelleydrye.com>, "de Leeuw, Michael" <MdeLeeuw@cozen.com>, "jbkelly@cozen.com" <jbkelly@cozen.com>
CC: "Kate Matuschak (Kate.Matuschak@ag.ny.gov)" <Kate.Matuschak@ag.ny.gov>, "Soberats, Annette" <asoberats@ftc.gov>, "Villafranco, John" <JVillafranco@KelleyDrye.com>, "Graham, Glenn T." <GGraham@KelleyDrye.com>, "twise@cozen.com" <twise@cozen.com>
Subject: RE: Joint Scheduling Order Quincy Bioscience

Michele:

Given your characterization of the parties' positions, we would like to inform the court of our understanding that we will be meeting with the Bureau Director and others on June 12. If that date changes, and you believe it necessary to let the court know, you can do so. As for the subject matter of the meeting, the intention is to discuss information relating to the merits of the case, which we consider relevant to possible resolution.

Attached please find a revised version adding your new language regarding the bench v. jury trial.

Thank you,

Jeff

GEOFFREY CASTELLO

Partner

Kelley Drye & Warren LLP

Tel: (973) 503-5922

Cell: (973) 886-4199

gcastello@kelleydrye.com

From: Rusk, Michelle K. [mailto:MRUSK@ftc.gov]

Sent: Friday, May 24, 2019 5:21 PM

To: Metzinger, Jaclyn <JMetzinger@kelleydrye.com>; Castello, Geoffrey <GCastello@KelleyDrye.com>; de Leeuw, Michael <MdeLeeuw@cozen.com>; 'jbkelly@cozen.com' <jbkelly@cozen.com>

Cc: Kate Matuschak (Kate.Matuschak@ag.ny.gov) <Kate.Matuschak@ag.ny.gov>; Soberats, Annette <asoberats@ftc.gov>; Villafranco, John <JVillafranco@KelleyDrye.com>; Graham, Glenn T. <GGraham@KelleyDrye.com>; 'twise@cozen.com' <twise@cozen.com>

Subject: RE: Joint Scheduling Order Quincy Bioscience

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Counsel:

We request the following changes:

1. For new sentence on prospect of settlement:

“Defendants submit that Plaintiffs’ characterization of the prospect of settlement is premature. Quincy’s counsel will meet with FTC staff on or about June 15 to discuss the case.”

Note that your proposed sentence was not accurate. We have a tentative date, not finalized, and we do not yet know who is attending. In addition, no representation has been made to us that this is about settlement. We were told it was a reanalysis of study numbers.

2. Please add the following to the sentence about bench trial on last page:

“It is Plaintiff’s position that this matter should proceed as a bench trial because this case is fundamentally about equitable relief and Defendants are therefore not entitled to a jury trial.”

Thanks. Michelle

Michelle Rusk
Div. of Advertising Practices
Federal Trade Commission
202-326-3148
MRusk@ftc.gov

From: Rusk, Michelle K.

Sent: Friday, May 24, 2019 4:40 PM

To: 'Metzinger, Jaclyn' <JMetzinger@kelleydrye.com>; Castello, Geoffrey <GCastello@KelleyDrye.com>; de Leeuw, Michael <MdeLeeuw@cozen.com>; 'jbkelly@cozen.com' <jbkelly@cozen.com>

Cc: Kate Matuschak (Kate.Matuschak@ag.ny.gov) <Kate.Matuschak@ag.ny.gov>; Soberats, Annette <asoberats@ftc.gov>; Villafranco, John <JVillafranco@KelleyDrye.com>; Graham, Glenn T. <GGraham@KelleyDrye.com>; 'twise@cozen.com' <twise@cozen.com>

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OK. We may have suggestions about both but folks are tied up in meetings until 6 or 6:30. Not sure the new sentence about FTC meeting is accurate as to timing or attendance. Will let you know as soon as I can.

Michelle

From: Metzinger, Jaclyn <JMetzinger@kelleydrye.com>
Sent: Friday, May 24, 2019 4:13 PM
To: Rusk, Michelle K. <MRUSK@ftc.gov>; Castello, Geoffrey <GCastello@KelleyDrye.com>; de Leeuw, Michael <MdeLeeuw@cozen.com>; 'jbkelly@cozen.com' <jbkelly@cozen.com>
Cc: Kate Matuschak (Kate.Matuschak@ag.ny.gov) <Kate.Matuschak@ag.ny.gov>; Soberats, Annette <asoberats@ftc.gov>; Villafranco, John <JVillafranco@KelleyDrye.com>; Graham, Glenn T. <GGraham@KelleyDrye.com>; 'twise@cozen.com' <twise@cozen.com>
Subject: RE: Joint Scheduling Order Quincy Bioscience

Attached is a new version accepting your edits and making a few additional edits in track changes. We will bring a clean copy to the conference on Tuesday for everyone's signature.

JACLYN METZINGER

Special Counsel
Kelley Drye & Warren LLP
Tel: (212) 808-7843
Cell: (585) 576-7268
jmetzinger@kelleydrye.com

From: Rusk, Michelle K. [<mailto:MRUSK@ftc.gov>]
Sent: Friday, May 24, 2019 1:07 PM
To: Metzinger, Jaclyn <JMetzinger@kelleydrye.com>; Castello, Geoffrey <GCastello@KelleyDrye.com>; de Leeuw, Michael <MdeLeeuw@cozen.com>; 'jbkelly@cozen.com' <jbkelly@cozen.com>
Cc: Kate Matuschak (Kate.Matuschak@ag.ny.gov) <Kate.Matuschak@ag.ny.gov>; Soberats, Annette <asoberats@ftc.gov>; Villafranco, John <JVillafranco@KelleyDrye.com>; Graham, Glenn T. <GGraham@KelleyDrye.com>; 'twise@cozen.com' <twise@cozen.com>
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CAUTION External Email

Thanks all. We are very close. Please see attached markup of your document at pp 4, p 10, and p13. With the following comments:

P. 4: this is Plaintiff's statement and we feel strongly about indicating that there have been no recent settlement discussions and that in *Plaintiff's view* we remain far apart.

p.10: We have reinserted the language on not using RFAs to authenticate documents but amended it to be Plaintiff's request (not parties agree) and also made it contingent on the Court imposing a limit to RFAs.

p. 13: the court's order at (7) specifically directs us to state the anticipated length of trial "and whether to court or jury." As we discussed yesterday, there is no basis for a jury trial in this matter so we have reinserted "bench."

From: Metzinger, Jaclyn <JMetzinger@kelleydrye.com>
Sent: Friday, May 24, 2019 12:01 PM
To: Rusk, Michelle K. <MRUSK@ftc.gov>; Castello, Geoffrey <GCastello@KelleyDrye.com>; de Leeuw, Michael <MdeLeeuw@cozen.com>; 'jbkelly@cozen.com' <jbkelly@cozen.com>
Cc: Kate Matuschak (Kate.Matuschak@ag.ny.gov) <Kate.Matuschak@ag.ny.gov>; Soberats, Annette <asoberats@ftc.gov>; Villafranco, John <JVillafranco@KelleyDrye.com>; Graham, Glenn T. <GGraham@KelleyDrye.com>; 'twise@cozen.com' <twise@cozen.com>
Subject: RE: Joint Scheduling Order Quincy Bioscience

All,

Attached is a revised draft of the discovery plan, both in clean and redline.

JACLYN METZINGER

Special Counsel
Kelley Drye & Warren LLP
Tel: (212) 808-7843
Cell: (585) 576-7268
jmetzinger@kelleydrye.com

From: Rusk, Michelle K. [<mailto:MRUSK@ftc.gov>]

Sent: Thursday, May 23, 2019 2:03 PM

To: Castello, Geoffrey <GCastello@KelleyDrye.com>; de Leeuw, Michael <MdeLeeuw@cozen.com>; 'jbkelly@cozen.com' <jbkelly@cozen.com>; Metzinger, Jaclyn <JMetzinger@kelleydrye.com>

Cc: Kate Matuschak (Kate.Matuschak@ag.ny.gov) <Kate.Matuschak@ag.ny.gov>; Soberats, Annette <asoberats@ftc.gov>; Villafranco, John <JVillafranco@KelleyDrye.com>

Subject: RE: Joint Scheduling Order Quincy Bioscience

CAUTION External Email

And here is a redline comparing 5/16/19 to 5/23/19 drafts.

From: Castello, Geoffrey <GCastello@KelleyDrye.com>

Sent: Wednesday, May 22, 2019 10:50 AM

To: Rusk, Michelle K. <MRUSK@ftc.gov>; de Leeuw, Michael <MdeLeeuw@cozen.com>; 'jbkelly@cozen.com' <jbkelly@cozen.com>; Metzinger, Jaclyn <JMetzinger@kelleydrye.com>

Cc: Kate Matuschak (Kate.Matuschak@ag.ny.gov) <Kate.Matuschak@ag.ny.gov>; Soberats, Annette <asoberats@ftc.gov>; Villafranco, John <JVillafranco@KelleyDrye.com>

Subject: RE: Joint Scheduling Order Quincy Bioscience

Michele:

We expect to have our portions of the draft to you later today.

We are on for tomorrow at 4:00. We will use the same dial-in that we used last Friday.

Guest Dial-in Code: 2003930#

US Toll: +1 (312) 233 2574

USA: +1 (877) 472 4353

Additional dial-in numbers:

US Toll: +1 (312) 233 2574

USA: +1 (877) 472 4353

Thanks,

Jeff

GEOFFREY CASTELLO

Partner

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Tel: (973) 503-5922

Cell: (973) 886-4199

gcastello@kelleydrye.com

From: Rusk, Michelle K. [<mailto:MRUSK@ftc.gov>]

Sent: Wednesday, May 22, 2019 10:23 AM

To: Castello, Geoffrey <GCastello@KelleyDrye.com>; de Leeuw, Michael <MdeLeeuw@cozen.com>; 'jbkelly@cozen.com' <jbkelly@cozen.com>; Metzinger, Jaclyn <JMetzinger@kelleydrye.com>

Cc: Kate Matuschak (Kate.Matuschak@ag.ny.gov) <Kate.Matuschak@ag.ny.gov>; Soberats, Annette <asoberats@ftc.gov>; Villafranco, John <JVillafranco@KelleyDrye.com>

Subject: Joint Scheduling Order Quincy Bioscience

CAUTION External Email

Jeff,

I just want to confirm that you are planning to get us your draft portions of the scheduling order later today and that we are still scheduled for a conference call tomorrow at 4:00. Should we use the same conference line as last week?

Thanks.

Michelle

This message is subject to Kelley Drye & Warren LLP's email communication policy.

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